

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

IN RE: HIGH-TECH EMPLOYEE ) C-11-02509 LHK  
ANTITRUST LITIGATION, )  
 ) SAN JOSE, CALIFORNIA  
 )  
 ) SEPTEMBER 12, 2012  
 )  
 ) PAGES 1-26  
\_\_\_\_\_)  
THIS DOCUMENT RELATES TO: )  
ALL ACTIONS )  
\_\_\_\_\_)

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE LUCY H. KOH  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFFS: JOSEPH SAVERI LAW FIRM  
BY: JOSEPH SAVERI  
LISA J. LEEBOVE  
255 CALIFORNIA STREET, SUITE 450  
SAN FRANCISCO, CALIFORNIA 94111  
  
LIEFF, CABRASER,  
HEIMANN & BERNSTEIN  
BY: KELLY M. DERMODY  
BRENDAN P. GLACKIN  
DEAN M. HARVEY  
275 BATTERY STREET, 30TH FLOOR  
SAN FRANCISCO, CALIFORNIA 94111

APPEARANCES CONTINUED ON NEXT PAGE

OFFICIAL COURT REPORTER: LEE-ANNE SHORTRIDGE, CSR, CRR  
CERTIFICATE NUMBER 9595

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPEARANCES (CONTINUED)

FOR DEFENDANT APPLE:	O'MELVENY & MYERS BY: GEORGE A. RILEY MICHAEL F. TUBACH TWO EMBARCADERO CENTER 28TH FLOOR SAN FRANCISCO, CALIFORNIA 94111
FOR DEFENDANT LUCASFILM:	KEKER & VAN NEST BY: DANIEL PURCELL 633 BATTERY STREET SAN FRANCISCO, CALIFORNIA 94111
FOR DEFENDANT GOOGLE:	MAYER BROWN BY: LEE H. RUBIN ERIC BUTLER EVANS TWO PALO ALTO SQUARE, SUITE 300 PALO ALTO, CALIFORNIA 94306
FOR DEFENDANTS ADOBE AND INTUIT:	JONES DAY BY: CRAIG E. STEWART 555 CALIFORNIA STREET 26TH FLOOR SAN FRANCISCO, CALIFORNIA 94104
FOR DEFENDANT INTEL:	BINGHAM MCCUTCHEN BY: FRANK M. HINMAN 1117 S. CALIFORNIA AVENUE PALO ALTO, CALIFORNIA 94304
FOR DEFENDANT PIXAR:	COVINGTON & BURLING BY: EMILY J. HENN 333 TWIN DOLPHIN DRIVE, SUITE 700 REDWOOD SHORES, CALIFORNIA 94065

1 SAN JOSE, CALIFORNIA

SEPTEMBER 12, 2012

2 P R O C E E D I N G S

3 (WHEREUPON, COURT CONVENED AND THE FOLLOWING PROCEEDINGS  
4 WERE HELD:)

5 THE CLERK: CALLING CASE NUMBER C-11-02509 LHK, IN  
6 RE: HIGH-TECH EMPLOYEE ANTITRUST LITIGATION.

7 NOW WE'LL TAKE APPEARANCES, PLEASE.

8 MR. SAVERI: GOOD AFTERNOON. JOSEPH SAVERI,  
9 JOSEPH SAVERI LAW FIRM, ON BEHALF OF THE PLAINTIFFS.

10 MS. DERMODY: GOOD AFTERNOON, YOUR HONOR.  
11 KELLY DERMODY, LEIFF CABRASER. WITH ME ARE MY PARTNER,  
12 BRENDAN GLACKIN, AND MY ASSOCIATE, DEAN HARVEY.

13 THE COURT: OKAY. GOOD AFTERNOON.

14 MR. RUBIN: GOOD AFTERNOON, YOUR HONOR. LEE RUBIN  
15 OF MAYER BROWN FOR GOOGLE.

16 THE COURT: OKAY. GOOD AFTERNOON.

17 MR. HINMAN: GOOD AFTERNOON, YOUR HONOR.  
18 FRANK HINMAN WITH BINGHAM MCCUTCHEN FOR INTEL.

19 THE COURT: OKAY. GOOD AFTERNOON.

20 MR. RILEY: GOOD AFTERNOON, YOUR HONOR.  
21 GEORGE RILEY AND MICHAEL TUBACH FROM O'MELVENY & MYERS FOR  
22 APPLE.

23 THE COURT: OKAY. GOOD AFTERNOON.

24 MR. STEWART: GOOD AFTERNOON, YOUR HONOR.  
25 CRAIG STEWART OF JONES DAY APPEARING TODAY FOR INTUIT AND

1 ADOBE.

2 MS. HENN: GOOD AFTERNOON, YOUR HONOR. EMILY HENN  
3 FROM COVINGTON & BURLING FOR DEFENDANT PIXAR.

4 THE COURT: OKAY. GIVE ME JUST ONE -- IF YOU CAN  
5 ANNOUNCE YOUR CLIENT FIRST, THAT'S HOW I HAVE YOU ALL  
6 ORGANIZED, THAT WOULD BE GREAT.

7 NOW, MR. STEWART, YOU ARE HERE FOR INTUIT AND?

8 MR. STEWART: AND ADOBE, YOUR HONOR.

9 THE COURT: OKAY. THANK YOU. OKAY.

10 AND I HAVE MS. HENN FOR PIXAR.

11 MS. HENN: YES, YOUR HONOR.

12 MR. PURCELL: YOUR HONOR, I'M HERE FOR LUCAS FILM,  
13 AND I'M DAN PURCELL FROM KEKER & VAN NEST.

14 THE COURT: OKAY. THANK YOU. DID WE GET EVERYBODY?  
15 ALL RIGHT.

16 SO I HOPE -- WERE YOU ABLE TO WORK OUT YOUR DISCOVERY  
17 ISSUES OR IS THERE ANYTHING LEFT?

18 MS. DERMODY: YOUR HONOR, KELLY DERMODY FOR THE  
19 PLAINTIFFS.

20 WE HAD A VERY PRODUCTIVE CONVERSATION WITH COUNSEL FOR  
21 GOOGLE IN PARTICULAR.

22 THE COURT: UM-HUM.

23 MS. DERMODY: WE REACHED A NUMBER OF SCHEDULING  
24 AGREEMENTS.

25 THE COURT: OKAY.

1 MS. DERMODY: THERE ARE A NUMBER OF DOCUMENTS THAT  
2 HAVE BEEN UNDER CONSIDERATION AND IN THAT DISCUSSION THAT WILL  
3 BE PRODUCED ANYWHERE FROM BETWEEN NEXT TUESDAY TO TWO WEEKS  
4 FROM TODAY ACCORDING TO GOOGLE.

5 WE ARE CONTINUING TO MEET AND CONFER ON PRIVILEGE LOG  
6 ISSUES WITH GOOGLE AND WITH SOME OTHER DEFENDANTS.

7 AND WE ALSO WANTED TO ALERT THE COURT THAT WE MADE A  
8 MISTAKE IN OUR STATEMENT LAST EVENING ABOUT THE PRODUCTION OF  
9 INTUIT AND INTEL. THEY HAD NOT LOGGED CERTAIN BIG BANG  
10 DOCUMENTS ON THEIR PRIVILEGE LOG.

11 THERE WAS A MISTAKE IN THAT, SO WE WANTED TO APOLOGIZE TO  
12 THE COURT AND CORRECT THE RECORD FOR THOSE TWO DEFENDANTS.

13 THE COURT: OKAY. AND WAS THE INTEL AND INTUIT BIG  
14 BANG PRODUCTION ON JUNE 25TH?

15 MR. HARVEY: YOUR HONOR, THIS IS DEAN HARVEY. I  
16 BELIEVE THE PRODUCTION FROM INTEL OCCURRED ON JUNE 27TH OR THE  
17 26TH.

18 FEEL FREE TO CORRECT ME.

19 MR. HINMAN: I THINK IT WAS THE 25TH, AND THEN THERE  
20 MAY HAVE BEEN A TECHNICAL GLITCH RESULTING IN A REPRODUCTION ON  
21 THE 26TH. BUT THAT'S BASICALLY WHERE IT WAS.

22 THE COURT: I WAS JUST WONDERING WHY THAT WAS NOT IN  
23 YOUR INITIAL CASE MANAGEMENT STATEMENT WHICH SEEMED TO INDICATE  
24 THERE WERE NO ISSUES OTHER THAN TRIAL DATE; AND THEN THE FILING  
25 FROM LAST NIGHT SAYS THESE ARE ISSUES THAT OCCURRED SINCE THE

1 FILING OF OUR LAST JOINT CASE MANAGEMENT STATEMENT A WEEK AGO.

2 BUT IF THESE WERE PRODUCED ON JUNE 25TH, I GUESS I WASN'T  
3 CLEAR WHY THEY WEREN'T IN YOUR INITIAL STATEMENT BACK ON  
4 SEPTEMBER 6TH.

5 MS. DERMODY: YOUR HONOR, SOME OF THIS IS JUST A  
6 MATTER OF THE VOLUME OF INFORMATION THAT CONTINUES TO COME IN,  
7 SO WE ARE TRYING TO REVIEW DOCUMENTS AS THEY ARRIVE AND WE HAVE  
8 BEEN, CANDIDLY, QUITE FOCUSED ON THE DATA ISSUES AS THAT  
9 REALLY IMPACTS NOT JUST OUR WORK, BUT OUR CONSULTANTS', AND  
10 MAKING SURE THAT WE HAVE A REPORT TO THE COURT THAT REALLY  
11 DEMONSTRATES WHY THE COURT SHOULD CERTIFY THIS CLASS.

12 SO WE ARE TRYING TO REVIEW THINGS AS QUICKLY AS POSSIBLE,  
13 AND AFTER THE 5TH, WE BECAME AWARE THAT THERE WERE SOME ISSUES  
14 IN THE DOCUMENT PRODUCTION AND THAT WE WERE SEEING SOME  
15 INCONSISTENCIES IN THE GOOGLE PRODUCTION OF GOOGLE DOCUMENTS  
16 COMPARED TO WHAT OTHER DEFENDANTS HAD BEEN PRODUCING FROM  
17 GOOGLE AND WANTED TO MAKE SURE THAT WE STAYED ON TOP OF THAT  
18 AND ALERTED THE COURT THAT NOT ONLY WERE THERE SOME GOOGLE  
19 ISSUES, BUT ALSO THE DATA THAT WAS PRODUCED BY APPLE ON THE  
20 5TH, WHICH WE WERE NOT AWARE OF REALLY WHAT WAS IN THAT DATA AT  
21 THE TIME WE FILED THE CMC STATEMENT, WAS RELEVANT DATA THAT WE  
22 NOW THOUGHT WE NEEDED TO TAKE SOME MORE TIME WITH IT AND MAKE  
23 SURE THAT WE HAD AN ADEQUATE AMOUNT OF TIME WITH OUR EXPERTS TO  
24 ASSIMILATE THAT INTO OUR ANALYSIS AND NOT COME BACK TO THE  
25 COURT SERIATIM AFTER WE FILED A MOTION SAYING WE WANT TO AMEND

1 THIS OR CORRECT THAT OR ADJUST THIS OR ADD THESE FACTS AS WE  
2 SUSPECT THAT'S NOT IN THE COURT'S WAY OF DOING THINGS.

3 SO THAT'S THE ONLY REASON WHY WE'VE PROPOSED THE  
4 ADDITIONAL TWO WEEKS. WE DON'T THINK THAT THERE IS A MAJOR  
5 DISAGREEMENT FROM THE DEFENDANTS ABOUT THOSE TWO WEEKS, EXCEPT  
6 HOW IT IMPACTS THE REST OF THE SCHEDULE, AND THAT'S SOMETHING  
7 THAT PROBABLY WE ALL ARE VERY INTERESTED IN, IF THE COURT IS  
8 WILLING TO EXTEND THE SCHEDULE, WHETHER THERE WILL BE ANY  
9 WILLINGNESS TO ALSO MODIFY THE TRIAL DATE SCHEDULE AND TO ALLOW  
10 THE PARTIES TO ADJUST ACCORDINGLY THE REST OF THE DATES.

11 THE COURT: SO YOU'RE NOT READY TO FILE YOUR CLASS  
12 CERT MOTION ON MONDAY, THE 17TH?

13 MS. DERMODY: WELL, YOUR HONOR, I THINK THE RISK  
14 RIGHT NOW IS THAT WE HAD THOUSANDS OF PAGES OF DOCUMENTS  
15 PRODUCED TO US TODAY, WE HAD SIGNIFICANT RELEVANT DATA PRODUCED  
16 TO US YESTERDAY, AND WE ARE DAYS AWAY FROM FILING OUR MOTION.

17 SO THE TRUTH OF THE MATTER IS, WE'RE NOT ENTIRELY SURE  
18 WHAT WE HAVE. WE KNOW THAT DOCUMENTS ARE STILL BEING PRODUCED.  
19 WE KNOW THAT GOOGLE IS GOING TO BE PRODUCING DOCUMENTS OVER THE  
20 NEXT TWO WEEKS AND THAT THE DATA, WHICH, AS I SAID, IS HIGHLY  
21 RELEVANT TO WHAT WE'RE DOING HERE, HAS TO BE INCORPORATED INTO  
22 THE EXPERT WORK.

23 AND, YOU KNOW, IT'S JUST PLACING US INTO A POSITION OF  
24 REACTING ON A VERY SHORT SCHEDULE, AND WE DON'T WANT TO GIVE  
25 THE COURT SOMETHING THAT'S NOT COMPLETELY WELL CONSIDERED OR

1 THAT HAS TO BE CORRECTED LATER ON.

2 THE COURT: SO HOW MUCH TIME ARE YOU ALL REQUESTING?

3 MS. DERMODY: WE PROPOSE TWO WEEKS, YOUR HONOR. I  
4 THINK THAT'S SUFFICIENT TO INCORPORATE THE NEW DATA THAT WE  
5 HAVE JUST RECEIVED YESTERDAY AND TO ALSO -- EXCUSE ME, LAST  
6 WEEK -- AND TO ALSO DEAL WITH SOME OF THE DOCUMENTS THAT ARE  
7 JUST COMING OUT THAT WE THINK ARE HIGHLY RELEVANT.

8 THE COURT: SO GOOGLE IS GOING TO COMPLETE ITS  
9 PRODUCTION ON SEPTEMBER 26TH, AND YOU'RE SAYING YOU WANT TO  
10 FILE YOUR CLASS CERT MOTION ON OCTOBER 1?

11 MS. DERMODY: YEAH.

12 MR. SAVERI: YES. THAT'S THE WAY THE -- THAT'S  
13 CORRECT, YOUR HONOR.

14 THE COURT: CAN YOU GIVE ME --

15 MARTHA, WHAT DO THE JANUARY LAW AND MOTIONS LOOK LIKE? I  
16 THINK WE HAVE A BUNCH OF CLAIM CONSTRUCTIONS COMING.

17 THE CLERK: THAT'S IN FEBRUARY.

18 THE COURT: OKAY.

19 THE CLERK: AS FAR AS CAMERON'S WORK LOAD, ON THE  
20 24TH WOULD WORK. HE ONLY HAS ONE.

21 THE COURT: THIS MIGHT BE GOING TO JEN STARK.

22 THE CLERK: OKAY.

23 THE COURT: SO IT DOESN'T MATTER WHOSE IT IS.

24 THE CLERK: IF IT'S GOING TO JEN, SHE HAS ONE ON THE  
25 3RD; SHE HAS ONE ON THE 10TH; SHE HAS NONE SO FAR ON THE 17TH



1 OR THE 24TH.

2 THE COURT: BUT WHAT ELSE DO WE HAVE GOING ON?  
3 BECAUSE IT'S JUST THE TIME FOR ME TO PREPARE BECAUSE I'M DOING  
4 A LOT OF CLAIM CONSTRUCTIONS OR SUMMARY JUDGMENT.

5 THE CLERK: ON THE 3RD, THERE'S THAT MOTION ON THE  
6 OLD VON HAAR CASE WHERE YOU FOUND MR. LOOK IN CONTEMPT. HE  
7 WANTED TO EXPUNGE THE CONTEMPT.

8 THE COURT: OKAY. THAT SHOULDN'T BE TOO TIME  
9 CONSUMING.

10 THE CLERK: THERE'S A MOTION ON SOMETHING -- MOTION  
11 TO DISMISS ON BE IN VERSUS GOOGLE, THAT'S A NEW CASE; AND THEN  
12 A MOTION TO DISMISS ON SHIOZAWA, AND I'M NOT SURE IF THAT'S THE  
13 FATHER OR THE SON BECAUSE WE NOW HAVE THE SON'S CASE, TOO.

14 THE COURT: OKAY.

15 THE CLERK: ON THE 10TH, HOPEFULLY THE GERBER CASES  
16 ARE GOING TO GO AWAY, THE MDL.

17 THE COURT: YEAH.

18 THE CLERK: IT'S THE LAST DAY FOR FERRETTI VERSUS  
19 PFIZER, AND THERE'S A MOTION TO DISMISS ON A NEWER CASE CALLED  
20 PENKAVA VERSUS YAHOO.

21 THE COURT: UM-HUM.

22 THE CLERK: THE 17TH IS THAT SEARS VERSUS THE  
23 HOUSING AUTHORITY OF MONTEREY AND A MOTION --

24 THE COURT: WHAT IS THAT, SUMMARY JUDGMENT?

25 THE CLERK: IT'S A MOTION TO DISMISS THE SECOND

1 AMENDED COMPLAINT.

2 THE COURT: OKAY.

3 THE CLERK: AND THEN A MOTION TO DISMISS ON THE  
4 FAIRLY NEW, I DON'T KNOW IF IT'S A FORECLOSURE CASE, RAHOI ET  
5 AL, VERSUS J.P. MORGAN BANK. THAT'S THE 17TH.

6 DO YOU WANT ME TO GO ON WITH THE 24TH?

7 THE COURT: NO. PROBABLY THE 10TH. THE 10TH.

8 IS THERE ANY OBJECTION FROM THE DEFENDANTS TO PUSHING ALL  
9 OF THE BRIEFING -- AND I'M NOT GOING TO GIVE ANY MORE  
10 EXTENSIONS BECAUSE I'VE ALREADY GIVEN, WHAT, FOUR MONTHS AND  
11 TWO WEEKS ALREADY.

12 MS. DERMODY: YES.

13 MR. SAVERI: YES.

14 MS. DERMODY: THANK YOU.

15 THE COURT: TWO WEEKS, AND THEN WE'LL BUMP THE CLASS  
16 CERT HEARING OUT A MONTH TO JANUARY 10TH.

17 MR. TUBACH: YOUR HONOR, THIS IS MICHAEL TUBACH  
18 SPEAKING ON BEHALF OF ALL DEFENDANTS UNTIL CORRECTED.

19 I THINK MOVING THE HEARING DATE ON CLASS CERT TO THE  
20 BEGINNING OF JANUARY IS GOING TO PRESENT A PROBLEM IF THE  
21 SCHEDULE OTHERWISE STAYS THE WAY IT IS.

22 THE COURT: YEAH, BUT YOU'RE AGREEING TO MOVE THE  
23 TRIAL DATE TO NOVEMBER.

24 MR. TUBACH: I WASN'T SURE WHETHER THE COURT HAD  
25 AGREED TO MOVE THAT TRIAL DATE. IF THE COURT IS WILLING TO --

1 THE COURT: WE NEED TO TALK ABOUT IT TODAY. I MEAN,  
2 I GENERALLY LIKE TO HAVE THINGS FASTER AND GENERALLY DON'T LIKE  
3 TO MOVE DATES. IT'S NOT MY PRACTICE IN OTHER CASES. I FORCE  
4 PEOPLE TO GO TO TRIAL AS ORIGINALLY SET.

5 BUT THIS CASE HAS GOT A DISEASE THAT'S CALLED CREEP AND  
6 IT'S GOING TO KEEP CREEPING AND CREEPING AND CREEPING.

7 MR. SAVERI: WELL, AND YOUR HONOR, THE HEARING DATE  
8 PROBLEM, THE CONFLICT IS CREATED BY ME, SO I'M ASKING FOR YOUR  
9 INDULGENCE TO GIVE ME SOME RELIEF ON THAT, AND I FULLY  
10 APPRECIATE YOUR CONCERN ABOUT SLIPPING THE DATE. BUT I WANTED  
11 TO BE CANDID FROM THE BEGINNING ABOUT MY SCHEDULE.

12 THE COURT: WHEN WAS THE FIRST COMPLAINT FILED?  
13 THIS IS GOING TO START SHOWING UP ON MY CJRA LIST.

14 MR. SAVERI: I BELIEVE IT WAS IN MAY.

15 THE COURT: FIRST COMPLAINT WAS MAY 4TH OF 2011, BUT  
16 THAT WAS -- OH, THEY WERE REMOVED MAY OF 2011.

17 MR. SAVERI: IT'S HARD TO KNOW BECAUSE THERE WERE  
18 COMPLAINTS FILED IN STATE COURT AND THEN THEY WERE REMOVED AND  
19 THEN THEY WERE ALL CONSOLIDATED HERE, SO I DON'T KNOW WHAT THE  
20 TRIGGERING IS.

21 THE COURT: THE TRIGGERING IS WHEN IT FIRST SHOWS UP  
22 IN FEDERAL COURT AND SHOWS UP ON MY BEING A DILATORY JUDGE.

23 SO THE FIVE CASES WERE REMOVED TO FEDERAL COURT IN MAY AND  
24 JULY OF 2011.

25 ANYWAY, DO YOU HAVE ANY OBJECTION TO MOVING THE CLASS CERT

1 HEARING TO JANUARY 10TH?

2 MR. TUBACH: NOT IF THE TRIAL DATE IS GOING TO MOVE,  
3 YOUR HONOR. I HATE TO LINK THOSE, BUT IF THE TRIAL DATE  
4 DOESN'T MOVE, I THINK IT'S -- I'VE BEEN THROUGH THE SCHEDULE.  
5 IT'S TIGHT AS A DRUM AND, UNLESS THE TRIAL DATE MOVES, IT'S  
6 JUST NOT FEASIBLE TO MOVE THE OTHER DATES.

7 THE COURT: OKAY. I MEAN, WHAT'S THE LIKELIHOOD --  
8 I REALLY DON'T THINK THIS CASE IS GOING TO GO TO TRIAL.

9 MR. TUBACH: WE THINK THE COURT IS GOING TO DENY  
10 CLASS CERTIFICATION, SO WE AGREE WITH YOU.

11 BUT WE STILL HAVE TO PLAN FOR THE UNLIKELY CONTINGENCY  
12 THAT THINGS GO THE OTHER WAY, AND IF THERE'S GOING TO BE A  
13 TRIAL, WE REALLY CAN'T HAVE A TRIAL IN AUGUST AND THEN HAVE THE  
14 CLASS CERT HEARING --

15 THE COURT: NO, I AGREE. THAT'S TOO TIGHT. THAT'S  
16 TOO TIGHT. EITHER IT ALL MOVES OR IT DOESN'T MOVE.

17 I HATE TO MOVE THIS -- OKAY. SO IF WE MOVED IT TO  
18 JANUARY 10TH, YOU HAVE ABOUT SIX WEEKS OF FACT DISCOVERY AFTER  
19 THE HEARING, WHICH IS VERY TIGHT. I GUESS MAYBE WE SHOULD WORK  
20 BACKWARDS.

21 MR. TUBACH: YOUR HONOR, WHAT I WAS GOING TO --

22 THE COURT: SO WHAT YOU ALL ARE REQUESTING IS  
23 NOVEMBER 12TH THROUGH DECEMBER 17TH, ROUGHLY?

24 MR. SAVERI: THAT WOULD BE FINE. OR WE CAN START  
25 EARLIER, TOO, JUDGE, IF THAT MAKES -- IF YOU WANT TO START --

1 THE COURT: WHAT IS THE DATE THAT YOU -- YOU  
2 REQUESTED, I THOUGHT, NOVEMBER 5TH OR AFTER. WAS THAT IT?

3 MR. SAVERI: IT IS, YOUR HONOR. BUT I WAS JUST  
4 SAYING THAT IF WE WANTED TO START EARLIER, A WEEK EARLIER, FOR  
5 EXAMPLE, IF THAT MADE THE DATES FIT BETTER AND IT WAS  
6 CONSISTENT WITH YOUR CALENDAR, THAT WOULD BE FINE, TOO.

7 MR. TUBACH: EITHER DATE IN NOVEMBER WOULD BE FINE  
8 WITH US, YOUR HONOR.

9 THE COURT: WHAT DO WE HAVE ON NOVEMBER 5TH? THERE  
10 MUST BE A REASON --

11 THE CLERK: OF 2013?

12 THE COURT: I GUESS WE HAVE NAVARRO VERSUS STERKEL.

13 THE CLERK: YOU MEAN THIS YEAR?

14 THE COURT: I'M SORRY. THAT'S NEXT YEAR.

15 THE CLERK: SO YOU WANT NOVEMBER NEXT YEAR?

16 THE COURT: NOVEMBER --

17 MS. DERMODY: IT'S THE 4TH, I THINK, A MONDAY.

18 THE COURT: YEAH, THE 4TH IS A MONDAY.

19 MR. SAVERI: I HAVE THE WRONG YEAR TOO, YOUR HONOR.

20 THE CLERK: WE HAVE JOHNSON VERSUS SKY CHEFS,  
21 CREAGRI VERSUS PINNACLIFE, AND CEPELLO VERSUS HOME DEPOT.  
22 THEY'RE ALL IN THE MIDST OF TRIAL IT LOOKS LIKE BECAUSE IT  
23 DOESN'T SAY JURY SELECTION. SO THEY MUST START PRIOR TO THAT.

24 MS. DERMODY: SO THE 12TH MAKES SENSE.

25 MR. SAVERI: YEAH, OR IT'S ACTUALLY -- THAT'S RIGHT,

1 BECAUSE THE 11TH, THAT MONDAY IS VETERAN'S DAY.

2 THE CLERK: RIGHT.

3 MR. SAVERI: SO THE 12TH IS TUESDAY. I GOT IT.

4 THE COURT: I GUESS THE REASON WHY I DID THIS IS I'M  
5 LOOKING AT PAGE 5 OF YOUR JOINT CASE MANAGEMENT CONFERENCE  
6 STATEMENT WHERE IT SAYS INTERIM CO-LEAD CLASS COUNSEL  
7 RESPECTFULLY REQUEST THAT THIS COURT SET THE JURY TRIAL TO  
8 BEGIN ANY DATE ON OR AFTER NOVEMBER 11TH --

9 MR. SAVERI: THAT'S CORRECT.

10 THE COURT: -- 2013.

11 MR. SAVERI: THAT'S CORRECT.

12 THE COURT: WHAT DO I HAVE ON NOVEMBER 12TH? I  
13 THINK I HAVE JACKSON --

14 THE CLERK: JACKSON FAMILY WINES.

15 THE COURT: IS THAT THE ONLY ONE?

16 THE CLERK: YEAH.

17 THE COURT: THAT'S THE ONLY ONE. OKAY. I CAN SET  
18 IT ON NOVEMBER 12TH. IT'LL GO FROM NOVEMBER 12TH THROUGH  
19 DECEMBER 17TH.

20 THE CLERK: AND THANKSGIVING IS THE 28TH NEXT YEAR.  
21 IT'S THE LAST THURSDAY.

22 THE COURT: YEAH. YOU'RE STILL ASSUMING IT'S GOING  
23 TO BE 15 DAYS?

24 MR. SAVERI: YES.

25 THE COURT: WHAT -- YOU SAID THANKSGIVING IS THE

1 28TH THAT YEAR?

2 THE CLERK: IT IS.

3 THE COURT: OKAY. SO -- NOW, DOES THAT DEPEND ON  
4 HOW MANY DEFENDANTS ARE STILL IN THE CASE AT THAT POINT?

5 MR. SAVERI: I WOULD THINK THAT WOULD HAVE SOMETHING  
6 TO DO WITH THE LENGTH OF THE TRIAL, YOUR HONOR.

7 THE COURT: WELL, I COULD SCHEDULE IT NOVEMBER 12TH  
8 THROUGH DECEMBER 17TH, BECAUSE WE'LL BE GOING MONDAYS,  
9 TUESDAYS, AND FRIDAYS. THE 11TH IS A FEDERAL HOLIDAY, AND I'M  
10 NOT SETTING ANYTHING ON THE 29TH BECAUSE THAT'S THE DAY AFTER  
11 THANKSGIVING.

12 MR. SAVERI: OKAY.

13 THE COURT: BUT YOU COULD HAVE NOVEMBER 12TH, 15TH,  
14 18TH, 19TH, 22ND, 25TH, 26TH, DECEMBER 2ND, 3RD, 6TH, 9TH,  
15 10TH, 13TH, 16TH, AND 17TH. THAT WOULD BE 15 DAYS. AND IF ANY  
16 DEFENDANTS ARE NO LONGER IN THE CASE AT THAT POINT, WE COULD  
17 PROBABLY SHORTEN THIS.

18 WHAT'S THE DEFENDANT'S POSITION ON THIS?

19 MR. TUBACH: I'M NOT SURE. IT'S HARD TO GUESS NOW  
20 WHETHER THE TRIAL IS GOING TO BE ANY SHORTER IF THERE ARE FEWER  
21 DEFENDANTS.

22 THE COURT: THAT'S FINE. BUT MOVING IT TO THE 12TH?

23 MR. TUBACH: I THINK THAT'S FINE, YOUR HONOR.

24 THE COURT: OKAY. SO IF WE DO THAT -- AND I REALLY  
25 DON'T WANT TO MOVE THIS AGAIN. OTHERWISE I'M JUST GOING TO

1        THROW MY HANDS UP AND I'M JUST GOING TO VACATE THE TRIAL DATE  
2        AND YOU ALL CAN TWIST IN THE WIND FOR ABOUT FIVE YEARS AND I'LL  
3        SET A SETTLEMENT CONFERENCE IN 2014 AND YOU CAN COME BACK AND  
4        SEE ME.

5                YOU KNOW, I'VE HAD IT. I DON'T KEEP MOVING DATES. I'VE  
6        ALREADY EXTENDED EVERYTHING OUT AT LEAST A MINIMUM OF FOUR  
7        MONTHS AND TWO WEEKS, SO -- ANYWAY, IF IT MOVES AGAIN, I'M JUST  
8        GOING TO VACATE THE TRIAL DATE AND I'M JUST GOING TO LET THIS  
9        SIT AND SIMMER FOR YEARS BECAUSE, YOU KNOW, I CAN ONLY GIVE YOU  
10       QUICK JUSTICE IF YOU ALL ARE READY TO GO DURING THE TIMES THAT  
11       HAVE BEEN SET.

12                SO -- ALL RIGHT. SO LET'S MOVE BACKWARDS, THEN. SO IF WE  
13        HAVE A TRIAL DATE STARTING ON NOVEMBER THE 12TH, THEN --

14                WHAT DO I HAVE ON OCTOBER 30TH FOR -- I SHOULD PROBABLY  
15        SET THIS ON A LAW AND MOTION CALENDAR BECAUSE IT'S GOING TO BE  
16        FAIRLY EXTENSIVE FOR A PRETRIAL CONFERENCE. MAYBE ON THE 31ST.

17                THE CLERK: SO FAR THERE'S NOTHING.

18                THE COURT: OKAY. SO WHY DON'T WE SET THE PRETRIAL  
19        CONFERENCE FOR OCTOBER 31? THAT'LL BE AT 2:00 O'CLOCK.

20                THE CLERK: DO YOU WANT TO MAKE IT 1:30 SINCE IT'S A  
21        LAW AND MOTION DAY?

22                THE COURT: OH, YEAH. LET'S DO 1:30.

23                MR. SAVERI: I'M SORRY, 1:30 ON HALLOW -- ON THE  
24        31ST?

25                THE COURT: YEAH. NOW --



1 MR. TUBACH: THERE WAS A VERY TIGHT TIME PERIOD  
2 PREVIOUSLY BETWEEN THE HEARING ON DISPOSITIVE MOTIONS AND THE  
3 PRETRIAL CONFERENCE. OBVIOUSLY THAT WOULD BE -- THE LONGER WE  
4 CAN GET IN BETWEEN THERE, THE BETTER TO GIVE THE COURT AN  
5 OPPORTUNITY TO RULE ON ANY MOTIONS BEFORE GOING INTO FULL TRIAL  
6 PREPARATION.

7 THE COURT: UM-HUM. WELL, WHAT ABOUT SETTING -- WE  
8 COULD SET THE DISPOSITIVE MOTION HEARING DATE IN AUGUST.

9 MR. TUBACH: I WAS GOING TO ASK IF THE COURT WOULD  
10 BE WILLING TO DO IT AT THE END OF JULY EVEN TO GIVE US MORE  
11 TIME, BASICALLY THREE MONTHS.

12 THE COURT: I CAN DO THAT, BUT THEN I THOUGHT YOU  
13 WERE GOING TO ASK FOR MORE DATES EARLIER ON IN THE FRONT END,  
14 AND I CAN'T GIVE YOU -- IF YOU'RE GOING TO GET A CLASS CERT  
15 HEARING ON JANUARY 10TH, THEN YOU'LL HAVE TO TRUNCATE  
16 EVERYTHING BETWEEN THAT AND JUNE.

17 CAN YOU DO THAT? DO YOU SEE WHAT I'M SAYING?

18 MR. TUBACH: YES, I DO.

19 THE COURT: LIKE BOTH ENDS ARE STARTING TO CONVERGE,  
20 AND SO -- I MEAN, IT'S UP TO YOU. HOW WOULD YOU LIKE TO DO IT?

21 MR. TUBACH: MAYBE THE BEGINNING OF AUGUST, YOUR  
22 HONOR.

23 THE COURT: OKAY. LET ME ASK MS. PARKER BROWN IF  
24 YOU COULD PLEASE TAKE A LOOK AT MAYBE AUGUST 8.

25 THE CLERK: THAT'S A FINAL PRETRIAL ON THAT

1        UNITED STATES VERSUS SHIOZAWA, WHICH IS THE FATHER.

2                    THE COURT:    THE TAX CASE?

3                    THE CLERK:    YEAH.

4                    THE COURT:    THAT'S THE 8TH?

5                    THE CLERK:    UM-HUM.    THERE'S NOTHING ON THE 1ST.

6                    THE OTHER DATES, THERE'S JUST ONE THAT'S A LAST DAY --

7                    MR. TUBACH:    THAT WAS THE 15TH?

8                    THE COURT:    15TH OF AUGUST.

9                    THE CLERK:    THAT'S THE LAST THE LAST DAY FOR

10        CREAGRI.

11                    THE COURT:    IS IT THE SUMMARY JUDGMENT IN CREAGRI?

12                    THE CLERK:    THE LAST DAY FOR DISPOSITIVE MOTIONS,

13        YEAH.

14                    THE COURT:    OKAY.    WHAT ABOUT THE 22ND?

15                    THE CLERK:    THAT'S THE LAST DAY FOR DISPOSITIVES ON

16        JOHNSON V. SKY CHEFS.

17                    THE COURT:    OKAY.    WELL, AUGUST -- I COULD DO

18        AUGUST 8TH.    I MEAN, YOU KNOW, I GUESS I'M PRETTY OPEN.    IT'S

19        HARD FOR ME TO PREDICT WHICH CASES WILL STILL BE AROUND IN

20        SUMMARY JUDGMENT STAGE.    SOME OF THOSE COULD RESOLVE --

21                    MR. TUBACH:    SURE.

22                    THE COURT:    -- BEFORE THAT DATE.    IF YOU HAVE A

23        STRONG PREFERENCE, I'M PRETTY OPEN.

24                    MR. TUBACH:    DID THE COURT SAY THE 15TH WAS

25        AVAILABLE?

1 THE COURT: YEAH. I MEAN, I HAVE SUMMARY JUDGMENT  
2 IN ANOTHER PATENT CASE, SO IF THEY'RE ALL GOING TO BE GO, IT'S  
3 GOING TO BE A PRETTY PAINFUL THURSDAY, BUT --

4 WELL, WHAT WAS THE 8TH? I'M SORRY. WHAT ELSE WAS SET ON  
5 THE 8TH?

6 THE CLERK: THE 8TH WAS --

7 THE COURT: THAT WAS U.S. VERSUS SHIOZAWA?

8 THE CLERK: RIGHT. I THINK THAT MIGHT BE MORE  
9 LIKELY TO GO AWAY.

10 THE COURT: YEAH.

11 MR. TUBACH: WE'LL TAKE THE 8TH, YOUR HONOR, IF  
12 THAT'S --

13 THE COURT: I MEAN, I COULD DO THE -- I COULD DO THE  
14 15TH.

15 WHAT ABOUT THE 22ND? YOU SAID THAT WAS THE LAST DAY IN  
16 SKY CHEFS?

17 THE CLERK: THAT'S JOHNSON V. SKY CHEFS.

18 THE COURT: OKAY. WE CAN SET IT FOR THE 15TH.  
19 THAT'S FINE. AUGUST 15TH, 2013, THAT'LL BE AT 1:30.

20 CAN WE TRUNCATE THIS? OBVIOUSLY YOU'LL NEED SOME TIME,  
21 BECAUSE IT'S GOING TO BE BOTH DAUBERT MOTIONS AND SUMMARY  
22 JUDGMENT, BUT CAN WE TRUNCATE THE SCHEDULE A LITTLE BIT?

23 MR. TUBACH: FROM WHAT IT CURRENTLY IS, IT LOOKS  
24 PRETTY TIGHT. I MEAN, THE DISPOSITIVE MOTIONS, AT LEAST THE  
25 TIME PERIODS I HAVE ARE -- FROM FILING, IT'S --

1 MR. SAVERI: 30, 30, 30.

2 MR. TUBACH: FOUR WEEKS FOR THE OPPOSITION, THREE  
3 WEEKS TO REPLIES AND THEN THREE WEEKS TO A HEARING. THAT'S  
4 UNDER THE CURRENT SCHEDULE. THAT'S PRETTY TIGHT, YOUR HONOR.

5 THE COURT: WELL, I MEAN, AGAIN, I'M NOT GOING TO BE  
6 ABLE TO GIVE YOU MUCH OF AN EXTENSION BECAUSE WE'RE PUSHING  
7 EVERYTHING ON THE FRONT END BACK.

8 MR. TUBACH: DO WE HAVE TO --

9 THE COURT: IT MAY TAKE ME AT LEAST SIX WEEKS TO  
10 GIVE YOU AN ORDER ON CLASS CERT, SO YOU MAY NOT GET AN ORDER ON  
11 CLASS CERT UNTIL MARCH, AND YOU HAVE TO DO EXPERT DISCOVERY,  
12 YOU MAY HAVE A LITTLE BIT OF FOLLOW-UP FACT DISCOVERY.

13 SO YOU TELL ME. IF YOU WANT ME TO PUSH THIS BACK THAT  
14 FAR, I CAN DO THAT, BUT IT'S GOING TO GIVE YOU A COUPLE MONTHS  
15 FOR EXPERT DISCOVERY AND ANY FOLLOW-UP FACT DISCOVERY.

16 MR. TUBACH: I'M -- LET ME JUST CHECK WITH MY  
17 CO-COUNSEL, IF I COULD?

18 THE COURT: ALL RIGHT. OTHERWISE I CAN PUSH THIS,  
19 YOU KNOW, FURTHER INTO AUGUST, OR EVEN EARLY SEPTEMBER. I'M  
20 FINE WITH THAT. THAT WOULD GIVE YOU MORE TIME.

21 MR. TUBACH: I THINK WE'RE FINE WITH THE CURRENT  
22 SCHEDULE AND STICK WITH THE BRIEFING SCHEDULE ON DISPOSITIVE  
23 MOTIONS, SHIFTED, BUT WITH THE SAME TIME INTERVALS THAT WE  
24 CURRENTLY HAVE.

25 SO THAT WOULD PUT THE REPLY BRIEF ON JULY 25 AND THE

1 OPPOSITION ON JULY 4. THAT MIGHT NEED TO MOVE A DAY OR TWO.

2 THE COURT: OKAY. SO THEN WHY DON'T WE HAVE THE  
3 EXPERT DISCOVERY CUT OFF ON, WHAT, DO YOU WANT MAY 24TH? THAT  
4 WOULD GIVE YOU ROUGHLY -- MAY 23RD, TWO WEEKS TO FILE ANY  
5 DISPOSITIVE MOTIONS. DOES THAT GIVE YOU ENOUGH TIME?

6 MR. TUBACH: YES, IT DOES.

7 MR. SAVERI: I'M SORRY. SO MAY --

8 MS. DERMODY: I MISSED THAT, TOO.

9 MR. SAVERI: MAY 23RD.

10 THE COURT: MAY 23RD FOR EXPERT DISCOVERY CUT OFF.

11 MR. SAVERI: GOT IT.

12 THE COURT: SUMMARY JUDGMENT MOTIONS AND DAUBERT  
13 MOTIONS JUNE 6TH, OPPOSITIONS JULY 5TH, REPLIES JULY 25TH.

14 MR. SAVERI: I'M SORRY. ARE YOU GUYS -- IS THE  
15 FEDERAL COURT OPEN FOR BUSINESS, YOUR HONOR, ON JULY 5TH?

16 THE COURT: YES.

17 MR. SAVERI: OKAY.

18 THE COURT: I MEAN, WE'LL BE HERE ON THE 4TH, TOO.

19 BUT MAY 23RD WILL BE --

20 MR. SAVERI: OKAY.

21 THE COURT: -- THE DISCOVERY CUT OFF, AND THEN LET'S  
22 HAVE THE -- I THINK WE PREVIOUSLY HAD ABOUT THREE WEEKS FOR  
23 DEPOSITIONS, SO THAT WOULD SET ONE, TWO, THREE, TO MAY 2ND FOR  
24 REBUTTAL EXPERT REPORTS, AND YOU PREVIOUSLY HAD --

25 MR. TUBACH: THREE WEEKS AFTER OPENING EXPERTS.

1 THE COURT: OKAY. SO WHERE DOES THAT TAKE US? ONE,  
2 TWO, THREE, TO APRIL 11TH.

3 MR. TUBACH: THAT DOES.

4 MR. SAVERI: YEAH.

5 THE COURT: ALL RIGHT. SO THEN WHEN DO YOU WANT  
6 YOUR FACT DISCOVERY CUT OFF?

7 MR. TUBACH: PERHAPS TWO WEEKS? I MEAN, THE SAME --  
8 WE HAD, I THINK, TWO WEEKS BETWEEN --

9 MR. SAVERI: LET'S SAY THE END OF MARCH.

10 MR. TUBACH: THAT WOULD BE FINE.

11 THE COURT: SO -- YOU MEAN TWO WEEKS BEFORE EXPERT  
12 DISCOVERY, SO THAT WAS, WHAT, APRIL 11TH, SO DO YOU WANT  
13 MARCH 28TH?

14 MR. SAVERI: I WAS GOING TO SAY JUST MARCH 29TH TO  
15 GIVE US UNTIL THE END OF THE WEEK.

16 THE COURT: THAT'S FINE.

17 MR. TUBACH: THAT'S FINE.

18 THE COURT: OKAY. SO HERE IS THE NEW CASE SCHEDULE  
19 THEN: CLASS CERT MOTION FILED, OCTOBER 1; OPPOSITION,  
20 NOVEMBER 12; REPLY, DECEMBER 13TH; HEARING WILL BE JANUARY 10TH  
21 AT 1:30; FACT DISCOVERY CUT OFF, MARCH 29; THE INITIAL EXPERT  
22 REPORTS, APRIL 11; REBUTTAL EXPERT REPORTS, MAY 2ND; EXPERT  
23 DISCOVERY CUT OFF, MAY 23RD; FILE DISPOSITIVE AND DAUBERT  
24 MOTIONS JUNE 6 TH; OPPOSITIONS, JULY 5TH; REPLIES, JULY 25TH;  
25 AND THE HEARING ON DISPOSITIVE AND DAUBERT MOTIONS WILL BE

1 AUGUST THE 15TH; YOUR PRETRIAL CONFERENCE IS OCTOBER 31; AND  
2 THE TRIAL WILL BE FROM NOVEMBER 12TH THROUGH DECEMBER 17TH OF  
3 2013.

4 MR. SAVERI: YOUR HONOR --

5 THE COURT: ANYONE WANT ANY OF THOSE DATES REPEATED?

6 MR. SAVERI: -- WHAT TIME IS THE HEARING FOR THE  
7 SUMMARY JUDGMENT ON THE 15TH?

8 THE COURT: THAT'LL BE AT 1:30.

9 MR. SAVERI: OKAY.

10 THE COURT: THE PRETRIAL CONFERENCE WILL BE ON A  
11 THURSDAY AT 1:30, AND THE HEARING ON SUMMARY JUDGMENT AND  
12 DAUBERT MOTIONS WILL ALSO BE ON A THURSDAY AT 1:30.

13 MR. SAVERI: OKAY. THANK YOU, YOUR HONOR.

14 MS. DERMODY: AND CLASS CERTIFICATION AS WELL, YOUR  
15 HONOR, AT 1:30?

16 THE COURT: CLASS CERT IS ALSO ON A THURSDAY AT  
17 1:30, JANUARY 10TH.

18 MR. SAVERI: OKAY.

19 MS. DERMODY: THANK YOU, YOUR HONOR.

20 THE COURT: OKAY. LET'S -- SHOULD WE SET A  
21 FOLLOW-UP CMC, AND IF SO, WHEN SHOULD THAT BE? DECEMBER?

22 MR. SAVERI: YOUR HONOR, I BELIEVE WE SHOULD.

23 THE COURT: UH-HUH.

24 MR. SAVERI: I THINK IT'S USEFUL TO HAVE THESE DATES  
25 ON OUR CALENDARS, AND SO DECEMBER SOUNDS LIKE A GOOD TIME.

1 THE COURT: I THINK -- LET ME ASK MS. PARKER BROWN  
2 WHAT DATE BETWEEN THE 5TH, THE 12TH, AND THE 19TH?

3 MR. TUBACH: WOULD IT MAKE MORE SENSE PERHAPS TO SET  
4 IT ON THE SAME DAY AS THE CLASS CERT HEARING?

5 THE COURT: WE COULD DO THAT. MY ONLY CONCERN IS IF  
6 THERE'S ANY SORT OF CLEAN UP ISSUE THAT WOULD BE WORTHWHILE TO  
7 MEET BEFORE THEN.

8 MR. TUBACH: BY THEN WE'LL HAVE FILED OUR REPLY  
9 BRIEFS, SO --

10 MR. SAVERI: I WOULD JUST SAY MY EXPERIENCE IS THAT  
11 BY THE END OF THE CLASS CERTIFICATION HEARING, IT'S A LONG DAY,  
12 ESPECIALLY IF THE CALENDAR IS CROWDED. I JUST THINK IT WOULD  
13 BE BETTER TO HAVE ANOTHER DATE ON THE CALENDAR. I THINK IT'S  
14 MORE -- AND THERE ARE REASONS TO DO IT EARLIER, TOO, BEFORE THE  
15 FIRST OF THE YEAR.

16 THE CLERK: EITHER THE 12TH OR THE 17TH -- OR THE  
17 19TH.

18 THE COURT: OKAY. WHAT DATE WOULD YOU LIKE? I --  
19 YOU KNOW, IF IT TURNS OUT THERE'S ABSOLUTELY NOTHING TO  
20 DISCUSS, THEN WE CAN ALWAYS VACATE IT OR CONTINUE IT TO  
21 JANUARY 10TH. BUT IN CASE THERE IS ANY SORT OF CLEAN UP ISSUE,  
22 IT MIGHT BE HELPFUL TO HAVE A DATE. SO WHAT DO YOU WANT? THE  
23 12TH OR THE 19TH?

24 MS. DERMODY: I THINK PLAINTIFFS WOULD PREFER THE  
25 19TH, YOUR HONOR, SINCE WE'LL BE PRETTY BUSY ON THE 12TH



1 GETTING OUR PAPERS TOGETHER TO FILE.

2 THE COURT: OKAY. I MEAN, THE REPLY IS DUE ON THE  
3 10TH.

4 MR. TUBACH: I THINK YOU WROTE THE -- I THINK YOU  
5 SAID THE 13TH.

6 MR. SAVERI: I WROTE DOWN THE 13TH. MAYBE I GOT IT  
7 WRONG.

8 MS. DERMODY: ME, TOO. SORRY.

9 THE COURT: LET ME DOUBLE-CHECK THAT. I THINK I  
10 JUST EXTENDED EVERYTHING BY TWO WEEKS. SO SEPTEMBER 17TH WENT  
11 TO OCTOBER 1; OCTOBER 29TH WENT TWO WEEKS TO NOVEMBER 12TH; AND  
12 NOVEMBER 26TH WENT TWO WEEKS TO DECEMBER 10TH. I JUST DID  
13 EVERYTHING TWO WEEKS, SO 14 DAYS ACROSS THE BOARD.

14 MS. DERMODY: THANK YOU, YOUR HONOR. I  
15 MISUNDERSTOOD. I THINK EITHER THE 12TH OR THE 19TH ARE FINE  
16 WITH US.

17 MR. TUBACH: THE 12TH WOULD BE FINE.

18 THE COURT: OKAY. IF YOU DON'T HAVE A PREFERENCE,  
19 THEN I'LL GO AHEAD AND SET IT FOR THE 12TH.

20 MS. DERMODY: GREAT.

21 MR. TUBACH: THANK YOU.

22 THE COURT: SO DECEMBER 12TH, AND THAT WILL BE AT  
23 2:00 O'CLOCK. OKAY?

24 MR. SAVERI: GREAT, YES.

25 THE COURT: ARE THERE ANY OF THE ISSUES THAT WERE

1 RAISED IN ALL THE SUPPLEMENTAL FILINGS THAT YOU WEREN'T ABLE TO  
2 RESOLVE, OR IS EVERYTHING --

3 MR. TUBACH: NOTHING FOR US, YOUR HONOR.

4 THE COURT: WERE YOU ABLE TO RESOLVE ALL THE ISSUES  
5 THAT YOU HAD RAISED?

6 MS. DERMODY: EITHER RESOLVED OR WE HAVE A PROCESS  
7 FOR WORKING THROUGH THEM, AND IF WE WEREN'T ABLE TO FINALIZE  
8 THAT PROCESS, IT WON'T AFFECT THE CLASS BRIEFING SCHEDULE.  
9 IT'LL BE JUST A ROUTINE DISCOVERY MATTER.

10 THE COURT: OKAY. ALL RIGHT. THEN ANYTHING ELSE  
11 THAT WE NEED TO HANDLE TODAY?

12 MR. SAVERI: NO, YOUR HONOR.

13 MR. TUBACH: NO, YOUR HONOR.

14 MR. RUBIN: NO, YOUR HONOR.

15 MR. SAVERI: YOUR HONOR, THANK YOU VERY MUCH FOR  
16 ACCOMMODATING MY SCHEDULE. I APPRECIATE THAT.

17 THE COURT: YEAH, NO PROBLEM. LET'S JUST TRY TO  
18 KEEP THESE DATES IF WE CAN AND NOT BUMP THEM OUT ANY MORE IF  
19 IT'S AT ALL POSSIBLE.

20 OKAY. THANK YOU.

21 MR. SAVERI: THANK YOU.

22 MS. DERMODY: THANK YOU, YOUR HONOR.

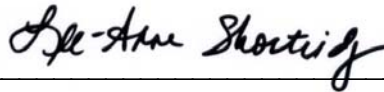
23 MR. TUBACH: THANK YOU, YOUR HONOR.

24 (WHEREUPON, THE PROCEEDINGS IN THIS MATTER WERE  
25 CONCLUDED.)

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT REPORTER OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY CERTIFY:

THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, IS A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.



LEE-ANNE SHORTRIDGE, CSR, CRR  
CERTIFICATE NUMBER 9595

DATED: SEPTEMBER 18, 2012